

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MUHAMMAD SHABBIR,

File No. 047 265 582,

Plaintiff,

v.

MICHAEL MUKASEY, U.S. Attorney General,

Department of Homeland Security;

EMILIO T. GONZALES, Director of

U.S. Citizenship & Immigration Services,

Defendants.

FILED: MAY 22, 2008

CASE NO. 08CV2994

AEE

JUDGE JUDGE KOCORAS

MAGISTRATE

MAGISTRATE JUDGE MASON

PETITION FOR HEARING ON NATURALIZATION
APPLICATION UNDER 8 U.S.C. § 1447(b)

NOW COMES the Plaintiff, Muhammad Shabbir, by and through his attorney, Bonita B. Hwang Cho, Law Offices of Cheng, Cho & Yee, P.C., and complaining of Defendant, states as follows:

1. Plaintiff is a lawful permanent resident of the United States who is statutorily eligible to naturalize and become a United States citizen. Plaintiff's application for naturalization has been unlawfully delayed by Defendant since March 4, 2005. As a consequence, this Court has jurisdiction to adjudicate Plaintiff's naturalization application and to grant him naturalization pursuant to 8 U.S.C. § 1447(b).

JURISDICTION

2. This Court has jurisdiction over the subject matter of this case pursuant to 8 U.S.C. § 1447(b) (jurisdiction over naturalization application), 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201 (declaratory judgment).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e) and 8 U.S.C. § 1447(b) because Plaintiff resides within the district of this court.

PARTIES

4. Plaintiff Muhammad Shabbir (“Shabbir”) is a lawful permanent resident of the United States from Pakistan. His N-400 Application for Naturalization was filed with U.S. Citizenship and Immigration Services (“USCIS”) on March 4, 2005. His N-400 Application for Naturalization was filed with U.S. Citizenship and Immigration Services (“USCIS”) on March 4, 2005 and he was interviewed on said application on June 15, 2005. Plaintiff’s application is still pending.

5. Defendant Michael Mukasey is the Attorney General of the United States.

6. Defendant Emilio T. Gonzalez is the Director of USCIS, and he is generally charged with enforcement of the Immigration and Nationality Act, and is further authorized to delegate such powers and authority to subordinate employees of USCIS, an agency under the Department of Homeland Security, including the approval and denial of immigration benefits. Specifically, Mr. Gonzalez is responsible for the grant or denial of naturalization applications under the Immigration and Nationality Act implementing regulations. See e.g. 8 U.S.C. § 1421, 8 C.F.R. § 310 and 8 C.F.R. § 316.3.

FACTS

7. Plaintiff, a lawful permanent resident from Pakistan, submitted an N-400 Application for Naturalization to USCIS on March 4, 2005 upon which he was interviewed and examined on June 15, 2005. See Exhibit A.

8. Plaintiff has made inquiries on his case to USCIS.

9. It has been almost 3 years since Plaintiff Shabbir’s interview, and no decision has yet been made on his N-400 Application, even though he is entirely eligible for naturalization

CLAIMS

10. Much more than 120 days have passed since Plaintiff has filed his N-400 Application for Naturalization, and Defendant has made no decision on Plaintiff's application in violation of 8 U.S.C. § 1447(b).

11. Defendant's failure to make a determination on Plaintiff's application within the 120 day statutory period entitles Plaintiff to bring this matter before this Court for a hearing pursuant to 8 U.S.C. § 1447(b).

REQUEST FOR RELIEF

12. Plaintiff seeks de novo judicial determination of his naturalization application and a grant of naturalization from this Court. In the alternative, Plaintiff seeks that the Court remand the application to USCIS with an order to immediately adjudicate his application.

WHEREFORE, Plaintiff prays that this Court:

1. Grant this petition and enter a judgment granting Plaintiff's naturalization and ordering that he is a naturalized citizen of the United States;
2. In the alternative, remand the application to USCIS with an order that it adjudicate the application within 15 days of said order;
3. Grant attorneys' fees and costs under the Equal Access to Justice Act;
4. Grant such other and further relief as is fit and proper.

Respectfully submitted,
MUHAMMAD SHABBIR

By: /s/ Bonita B. Hwang Cho
One of his attorneys

Bonita B. Hwang Cho
Attorney for Plaintiff
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CERTIFICATE OF SERVICE

I, Bonita B. Hwang Cho, the attorney, hereby certify that on the 22nd day of May, 2008, a Petition for Hearing was served to:

Michael Mukasey, U.S. Attorney General
c/o Office of the General Counsel
U.S. Department of Homeland Security
Washington, D.C. 20528

and

Emilio Gonzales, Director of U.S. CIS
c/o Office of the General Counsel
U.S. Department of Homeland Security
Washington, D.C. 20528

and

Patrick J. Fitzgerald
U.S. Attorney
Northern District of Illinois
219 South Dearborn, Suite 5000
Chicago, IL 60604

/s/ Bonita B. Hwang Cho

Attorney for Plaintiff
Bonita B. Hwang Cho
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Chicago, Illinois 60602
(312) 853-3088
bcho@lawyersimmigration.com

A#: 47-265-582

On JUN 15 2005, you were interviewed by USCIS officer LITWIN

- ☒ You passed the tests of English and U.S. history and government.
- ☐ You passed the tests of U.S. history and government and the English language requirement was waived.
- ☐ USCIS has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- ☐ You will be given another opportunity to be tested on your ability to _____ speak/ _____ read/ _____ write English.
- ☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- ☐ Please follow the instructions on Form N-14.
- ☒ USCIS will send you a written decision about your application.
- ☐ You did not pass the second and final test of your _____ English ability/ _____ knowledge of U.S. history and government. You will not be rescheduled for another interview for this Form N-400. USCIS will send you a written decision about your application.
- A) _____ **Congratulations! Your application has been recommended for approval.** At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B) ☒ **A decision cannot yet be made about your application.**

It is very important that you:

- ☒ Notify USCIS if you change your address.
- ☒ Come to any scheduled interview.
- ☒ Submit all requested documents.
- ☒ Send any questions about this application in writing to the officer named above. Include your full name, Alien Registration Number (A#), and a copy of this paper.
- ☒ Go to any Oath Ceremony that you are scheduled to attend.
- ☒ Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or Oath Ceremony. Include a copy of this paper and a copy of the scheduling notice.

NOTE: Please be advised that under section 336 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied, or before the U.S. district court if USCIS has not made a determination on your application within 120 days of the date of your examination.